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9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 SAN FRANCISCO DIVISION  
12

13 UNITED STATES OF AMERICA, )  
14 Plaintiff, )  
15 v. )  
16 GONZALO MAYORGA, )  
17 Defendant. )  
18

No. 3-05-70991 EDL

~~PROPOSED~~ ORDER AND STIPULATION  
WAIVING TIME UNDER RULE 5.1 AND  
EXCLUDING TIME FROM APRIL 26, 2006  
TO MAY 26, 2006 FROM THE SPEEDY  
TRIAL ACT CALCULATION  
(18 U.S.C. § 3161(h)(8)(A))

19 The parties appeared before the Court on April 26, 2006. With the agreement of the parties,  
20 and with the consent of the defendant, the Court enters this order (1) scheduling a new  
21 preliminary hearing/arraignment date of May 26, 2006 at 9:30 a.m., before the Honorable  
22 Elizabeth D. Laporte; (2) documenting the defendant's waiver of time limits under Federal Rule  
23 of Criminal Procedure 5.1; and (3) documenting the exclusion of time under the Speedy Trial  
24 Act, 18 U.S.C. § 3161(h)(8)(A), from April 26, 2006 to May 26, 2006. The parties agreed, and  
25 the Court found and held, as follows:

26 1. The defendant waived the time limits for a preliminary hearing under Federal Rule of  
27 Criminal Procedure 5.1. Failure to grant the requested continuance would unreasonably deny the  
28 defense reasonable time necessary for effective preparation, taking into account the exercise of

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1 due diligence, and would deny the defendant continuity of counsel.

2 2. Counsel for the defense believes that postponing the preliminary hearing is in his  
3 client's best interest, and that it is not in his client's interest for the United States to indict the  
4 case before the currently scheduled preliminary hearing/arraignment date. The parties expect to  
5 discuss the possibility of a pre-indictment disposition of the case.

6 3. The defendant agreed to an exclusion of time under the Speedy Trial Act. Failure to  
7 grant the requested continuance would unreasonably deny both government and defense counsel  
8 reasonable time necessary for effective preparation, taking into account the exercise of due  
9 diligence and the need for both sides to investigate the facts of the case, and would deny the  
10 defendant and the government continuity of counsel.

11 4. Given these circumstances, the Court found that the ends of justice served by  
12 excluding the period from April 26, 2006 to May 26, 2006, outweigh the best interest of the  
13 public and the defendant in a speedy trial. Id. § 3161(h)(8)(A).

14 5. Accordingly, and with the consent of the defendant, the Court ordered that the period  
15 from April 26, 2006 to May 26, 2006 be excluded from Speedy Trial Act calculations under 18  
16 U.S.C. § 3161(h)(8)(A) & (B)(iv).

17 4. The Court scheduled a new preliminary hearing/arraignment date of May 26, 2006, at  
18 9:30 a.m., before the Honorable Elizabeth D. Laporte.

19 IT IS SO STIPULATED.

20 DATED: \_\_\_\_\_

/S/

21 TRACIE L. BROWN  
22 Assistant United States Attorney

23 DATED: \_\_\_\_\_

/S/

24 STEVEN KALDER  
25 Attorney for GONZALO MAYORGA

26 IT IS SO ORDERED.

27 DATED: 5/9/06  
28 \_\_\_\_\_

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